DOCUMENT RESUME

ED 158 981 SE 024 671

TITLE Pesticide Dealers Training Manual. Manual 100.
INSTITUTION Missouri Univ., Columbia. Agricultural Experiment Station.; Missouri Univ., Columbia. Extension Div.
PUB DATE [77]
NOTE 33p.; For related documents, see SE 024 665-670 and SE 024 748-751

EDRS PRICE MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS *Certification; *Instructional Materials; *Pesticides; *Post Secondary Education; *Safety; *State Legislation
IDENTIFIERS *Missouri; Pesticide Dealers

ABSTRACT

This training manual provides information needed by pesticide dealers to meet the requirements of the Missouri Pesticide Act of 1974. A complete copy of the Act accompanies the manual. Pertinent sections to dealers are quoted and additionally explained through comment, interpretation, and example. (CS)

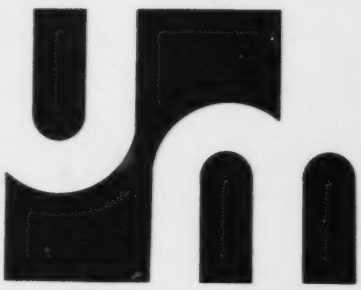
****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

ED158981

SE 024 671



PESTICIDE DEALERS TRAINING MANUAL

manual 100

This manual was developed in cooperation with The Missouri Department of Agriculture and the Coop Extension Service, University of Missouri.

Assembled by Members of Extension Pesticide Training Team

This training manual is intended to provide pesticide dealers with the information needed to meet the requirements of the Missouri Pesticide Act of 1974. And it also prepares dealers for an examination given by the Missouri Department of Agriculture based on this manual and the Act. Neither this manual nor the training are intended to provide all of the information needed to responsibly carry on the business of a pesticide dealer. Additional publications on pesticide recommendations and usage may be obtained from University Extension Centers.

This manual was prepared jointly by the Missouri Department of Agriculture and members of Extension Pesticide Training Team.

A complete copy of Missouri Pesticide Act of 1974 accompanies this manual. Testing will cover both the manual and the Act.

SECTIONS OF THE "ACT" THAT APPLY SPECIFICALLY TO DEALERS
Each Section and/or Subsection is quoted directly from the Act. This is followed by additional explanation including comments, intent, interpretations and examples.

Section 3: Definitions

Subsection 17. A pesticide dealer is defined as "any person who is engaged in the business of distributing, selling, offering for sale, or holding for sale restricted use pesticides."

Section 9: Pesticide Dealers

Subsection 1. No person shall act in the capacity of a pesticide dealer or shall engage in the business of, advertise as, or assume to act as a pesticide dealer unless he has obtained a license from the commissioner which shall expire one year from date of issuance. A license shall be required for each location or outlet from which such pesticides are distributed, sold, held for sale, or offered for sale. Pesticide dealers may be designated by the commissioner as agents of the state for the purpose of issuing permits for restricted use pesticides to private applicators.

This means that every Missouri pesticide dealer retailing any pesticide which has been classified for restricted use must obtain a state license.

Actually, the license is an individual license issued to at least one person who is based at the location, site or outlet from which restricted use pesticides are or may be retailed. Therefore, this license is not issued on the basis of the place of business, location, site or outlet. Examples:

1. You or your company retails one or more restricted use pesticides from three separate places of business within a county. Then each of these places of business would require the services of a separate, licensed pesticide dealer.
2. You or your company operate only one place of business. You retail from one building but warehouse (store) restricted use pesticides in a separate building located upon the same piece of property. The key is where does the financial transaction occur. If you retail restricted use pesticides from both building and warehouse, then two individual, licensed pesticide dealers are needed. Otherwise, only one licensed pesticide dealer is needed at the place where the sale occurs.

The last sentence indicates that the commissioner may, at his discretion, designate you or your pesticide dealer as an agent of the state for the purpose of maintaining a register. The signing of this register by the private applicator (farmer) indicates he is familiar with the information contained upon the label of the particular restricted use pesticide he desires to purchase. The private applicator's signature in this register allows you to sell him the quantity of a single restricted use pesticide needed to combat his immediate pest problem. The register signature does not allow unlimited purchases of restricted use pesticides.

Subsection 2. Application for a pesticide dealer's license shall be made on a designated form obtained from the commissioner's office. The commissioner shall collect a fee of ten dollars for the issuance of each license. The provisions of this section shall not apply to a pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are

> dispensed only through apparatuses used for such pesticide applications. The provisions of this section shall not apply to any federal, state, or county agency which provides pesticides for their own programs.

The procedure to follow in applying for a pesticide dealer's license and the annual license fee are self-explanatory.

The third sentence of this subsection states that any commercial (custom) applicator who dispenses restricted use pesticides only as a part of his service as a pesticide applicator is not considered a pesticide dealer. However, he must be licensed in one or more of the commercial applicator categories. In addition, should this commercial applicator ever retail any restricted use pesticide to another applicator, either commercial or private, he automatically and immediately becomes a pesticide dealer. Also, those who wholesale restricted use pesticides only to dealers need not be licensed. But those who wholesale to the ultimate user will be licensed.

The last sentence of this subsection is also self-explanatory.

Subsection 3. Each applicant shall satisfy the commissioner as to his knowledge of the laws and regulations governing the use and sale of pesticides and his responsibility in carrying on the business of a pesticide dealer. Each licensed pesticide dealer shall be responsible for ensuring that all of his employees and agents who sells or recommends restricted use pesticides have adequate knowledge of the laws and regulations governing the use and sale of such restricted use pesticides.

In the common terminology of a regulatory agency, this subsection spells out the standards or requirements that a pesticide dealer must know in order to successfully

complete an examination prior to the issuance of a license. The last sentence charges you with the responsibility of training employees on the laws and regulations covering the use and sale of restricted use pesticides.

The term "use" appears frequently in both the Federal and State Acts. This term encompasses much more than the common connotation of physically applying the pesticide. In both Acts, "use" means "any act of handling or release of a pesticide, or exposure of man or the environment to a pesticide through acts, including but not limited to: (1) Application of a pesticide, including mixing and loading and any required supervisory action in or near the area of application; (2) Storage actions for pesticides and pesticide containers; and (3) Disposal actions for pesticides and pesticide containers." Therefore, dealers are either directly or indirectly involved under this broad definition from the time they receive a pesticide shipment through the disposal of the empty containers.

Subsection 4. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing for any violation of this act whether committed by the dealer, or by the dealer's officer, agent or employee.

This subsection makes it quite clear that a licensed pesticide dealer is responsible for any acts of his employees or agents, and for any violation of this Act by them. Examples of such acts may include storage (the facility and its operational procedures), safety (safety equipment and handling and storage), false advertising, selling from an unlicensed site, selling a restricted use pesticide to a non-certified or non-

licensed applicator, or selling a pesticide for a use not consistent with its labeling.

Subsection 5. No pesticide dealer shall sell, give away or otherwise make available any restricted use pesticides to anyone but certified commercial or private applicators or to other pesticide dealers.

Pesticide dealers and their employees must therefore have a knowledge of restricted use pesticides. To date, such a listing has not been developed by EPA. Nevertheless, this should not be difficult to determine since labels will state in bold type at the top of the front panel whether the pesticide is classified for "general" or "restricted" use. However, determining the proper classification for those pesticides having both "general uses" and "restricted uses" will be somewhat more difficult.

A presumptive classification of agriculturally used fungicides, herbicides and insecticides was issued by EPA on May 15, 1975. The following chart gives the number of pesticides included under each of the classifications:

	General	Restricted	Some Uses General and Some Uses Restricted
Fungicides	19	1	2
Herbicides	37	0	1
Insecticides	20	8	16

This classification was based solely on the acute dermal toxicity of these pesticides. Additional criteria exist for determining use classification for these and most other pesticides. It will be a year or more before all pesticide uses have been classified.

Subsection 6. The commissioner shall require pesticide dealers to maintain books and records with respect to sales of restricted use pesticides. Such relevant information as to the commissioner may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of sale of the restricted use pesticides to which such records refer, and the commissioner shall upon request in writing, be furnished with a copy of such records by any licensed pesticide dealer.

Forms for recording and maintaining these required records are being prepared. They will be available from Pesticide Control, Box 630, Jefferson City, Missouri 65101.

Regulations developed under this Act, and for this subsection have not been finally drafted to date. Once regulations have been adopted as required by this Act, additional information on requirements for record keeping may be forthcoming.

Subsection 7. Every licensed pesticide dealer who changes his address or place of business shall immediately notify the commissioner.

Here is additional evidence that a pesticide dealer's license is actually an individual one. Therefore, it is not issued on the basis of location or outlet as stated in Subsection 1. The point is that should a licensee move from the address of the outlet, the license would accompany the licensee. Consequently, the licensee is responsible for notifying the commissioner of this change in his address and the place of business.

Section 10: License Renewal

Subsection 1. If the application for renewal of any license provided for in this chapter is not filed prior to expiration date in any

> year, a penalty of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued; provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license. Any person holding a current valid license may renew the license for the next year without taking another examination unless the commissioner determines that additional knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within two months following date of expiration, then the licensee shall be required to take another examination.

Therefore, pesticide dealers must file for license renewal before the expiration date of the license. Late filing for license renewal will be charged twenty-five percent of license cost as a penalty. If the license is not renewed within sixty days of expiration date, you must retake and pass another examination.

> Subsection 2. The commissioner may promulgate reasonable regulations requiring additional training and instruction on the part of any applicant for a license issued under this act.

Regulatory agencies are noted for changing rules and regulations. When a sufficient amount of new or additional information becomes available, or when additional regulations are adopted, the commissioner may require retraining of any type of license holder designated in this Act. It is possible that additional training will be required periodically before license renewal would be accepted.

> Subsection 3. The commissioner shall have prepared for prospective licensee's use, a book of guidelines of factual necessary information related to the requirements of this act. A reasonable fee may be collected for said publication.

Section 17

> When the commissioner or his authorized agent has probable cause to believe a pesticide is being distributed in violation of any of the provisions of this act, or of any of the prescribed regulations under this act, he may issue and serve a written "stop sale, use or removal order" upon the owner or custodian of that pesticide. The pesticide shall not be sold, used or removed until the provisions of this act have been complied with and the pesticide has been released in writing by the commissioner or the violation has been otherwise disposed of as provided in this act by a court of competent jurisdiction.

With the increasing number of pesticide suspensions and cancellations being issued by EPA, the commissioner probably will eventually issue a "stop sale, use or removal order." As a pesticide dealer, your stock of the pesticide named in the "order" would be "frozen" until the issue has been settled and you are notified in writing of the procedure to follow in the future sale or disposal of the particular product. Under most of the "stop sale, use or removal orders" issued by EPA, either the formulating company or the basic manufacturer of the pesticide involved have taken back the product(s) for correction of the error, reformulating, recycling or disposal.

Section 20

> The violation of Section 6, subsections 1 and 7, Section 9, subsections 1 and 5, of this act is a misdemeanor and, upon conviction shall be punished as provided by law.

Please refer to Section 14 of the Federal Environmental Pesticide Control Act for regulations regarding civil and criminal penalties as found on page 13.

In essence, this is the purpose of the "Pesticide Dealers Training Manual" over which training will be conducted and from which the examination will be taken.

Section 11

> The commissioner, after inquiry, and after opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under this act, if he finds that the applicant or the holder of a license, permit or certification has violated any provision of this act, or any regulation issued thereunder.

This is the real reason pesticide dealers must know the laws and regulations governing the use and sale of pesticides and know their responsibility in carrying on the business of a pesticide dealer. Should a dealer violate any portion of this Act, his license is subject to suspension or revocation. The sale of restricted use pesticides constitutes a portion of a dealer's annual income. Therefore, it is squarely up to him to maintain his business and license by following the rules and regulations of this Act.

Section 16

> No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetaion, crops, livestock, wildlife, beneficial insects, or to pollute any waterway. The commissioner may promulgate rules and regulations governing the discarding and storing of such pesticide or pesticide containers. In determining these rules and regulations the commissioner shall take into consideration any regulations issued by the federal Environmental Protection Agency.

Please refer to Section 19 of the Federal Environmental Pesticide Control Act for proposed regulations on storage and disposal of pesticides and pesticide containers found on pages 13 through 19.

Section A

Sections 5, 6, 7, 8, 9, 10, 12 and 14 shall become effective on October 21, 1976.

This is the reason training is being provided at this time. That gives dealers time to become licensed before the effective date for these sections has passed. Since the effective date for the amended Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) has been extended by Congress until October 21, 1977, it is possible that the Missouri General Assembly may also extend the deadline for the Missouri Pesticide Act.

OTHER STATE AGENCIES REGULATING PESTICIDAL CHEMCIALS

Missouri Department of Conservation

Their code of regulations includes a section stating in essence that no chemical can be used to control any form of wildlife without first obtaining a permit from the Director of that department. This includes non-domesticated animals and/or birds found damaging agricultural crop production.

Missouri Department of Natural Resources
Solid Waste Management Program

This program has the responsibility for approval of sanitary land-fill sites. Proposed EPA disposal regulations state that any pesticide containing "heavy metals" must be disposed of in an approved sanitary land-fill. Heavy metals include any pesticide containing as a part of its chemical formula arsenic, cadmium, copper, lead, mercury, manganese, zinc , chromium, tin, thallium or selenium. Therefore, this program has the authority to approve land-fills for the purpose of pesticide and pesticide container disposal. To date, their activities in this area have been neglible.

FEDERAL AGENCIES REGULATING PESTICIDAL CHEMICALS

Department of Transportation (DOT)
This department sets standards and regulates the interstate transportation of pesticides. If you transport pesticides across state lines, the product(s), truck and driver must meet these requirements.

Federal Aviation Administration (FAA)
This agency regulates the aerial application of pesticides. They judge the flying ability of pilots and the safety of their aircraft. They have ruled that aerial applicators may not apply any pesticide except as the label directs.

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA).
This agency requires anyone with eleven (11) or more workers to keep records and make reports of all work-related deaths, injuries, and illnesses, excepting minor first aid treatment. This includes pesticide related accidents and illnesses.

Federal Trade Commission
This agency regulates advertising of pesticide products. It is illegal to claim any pesticide to be "safe and/or harmless" or to make claims or insinuate that any pesticide can be used for any purpose other than those appearing on the lable.

Department of Health, Education and Welfare
Food and Drug Administration (FDA). Although it is the responsibility of EPA to establish tolerances for residues of pesticides in or on raw agricultural products or processed foods, FDA still has the authority to enforce this portion of the Federal Food, Drug and Cosmetic Act.

A tolerance is the amount of a pesticide or its breakdown products that have been judged safe for human use. Residues remaining in or on human food or animal feed are considered "food additives." If residues exceed the established tolerance, the food or feed product may be seized or condemned.

Tolerances and residues are expressed in "parts per million" (ppm). Established tolerances do not appear on most pesticide labels. However, the label does state the required interval in days between application and harvest. Such intervals have been judged to be of sufficient duration to allow residues to drop below established tolerance.

Environmental Protection Agency (EPA)

This federal agency has nearly complete regulatory control over water and air quality and all pesticidal chemicals.

The Federal Environmental Pesticide Control Act (FEPCA), which is an amendment to the existing Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), does not at present specifically include or regulate pesticide dealers. However, regulations contained within some sections of the amended FIFRA do apply to pesticide dealers.

Those portions of the Federal Environmental Pesticide Control Act which apply to dealers follow this section.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT

Section 12: Unlawful Acts

1. To distribute, sell, offer for sale, or hold for sale any pesticide which is not federally registered. The Environmental Protection Agency (EPA) regis-

tration number appears on the lower left hand corner of the front panel of the pesticide label.

2. To detach, alter, deface, or destroy, in whole or in part, any pesticide label.
3. To give a guarantee which is false in any particular.
4. To advertise any product which is registered for restricted use without designating this classification.
5. To use any registered pesticide in a manner inconsistent with its labeling.

Section 13: Stop Sale, Use, Removal, and Seizure

When EPA has reason to believe that any pesticide or device is in violation of any of the provisions of this Act, they may issue a stop sale, use of removal order to any person who owns, controls, or has custody of the violating pesticide or device. This means dealers cannot sell, use or remove the product until the order is rescinded.

Section 14: Penalties

Civil Penalties. Any dealer . . . who violates any provision of this Act may be assessed a civil penalty . . . of not more than $5,000 for each offense.

Criminal Penalties. Any dealer . . . who knowlingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

Section 19: Disposal and Transportation

EPA shall establish procedures and regulations for the disposal or storage of packages and containers of pesticides or for disposal or storage of excess amounts of such pesticides and accept at convenient locations for safe disposal a pesticide the registration of which is cancelled if requested by the owner of the pesticide.

Proposed Regulations

At the time of printing of this manual, EPA had not printed its final regulations on this section. Some of their proposed regulations, which are subject to change, do relate to pesticide dealers. The following points apply to storage of any pesticide classed as highly toxic or moderately toxic which bear the signal words DANGER, POISON, or WARNING.

Storage Sites

Storage sites should be selected with due regard to the amount, toxicity, and environmental hazard of pesticides, and the number and size of containers to be handled.... Sites should be located where flooding is unlikely and where soil texture/structure and geologic/hydrologic characteristics will prevent the contamination of any water system by runoff or percolation. Where warranted, drainage from the site should be contained (by natural or artifical barriers or dikes), monitored, and if contaminated, disposed of as an excess pesticide.... Consideration should also be given to containing windblown pesticide dusts or particles.

Storage Facilities

Pesticides should be stored in a dry, well ventilated, separate room, building or covered area where fire protection is provided. Where relevant and practicable, the following precautions should be taken:

(1) The entire storage facility should be secured by a climb-proof fence, and doors and gates should be kept locked to prevent unauthorized entry.

(2) Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature....

(3) All items of movable equipment used for handling pesticides at the storage site which might be used for other purposes should be labeled "Contaminated With Pesticides" and should not be removed from the site unless thoroughly decontaminated.

(4) Provision should be made for decontamination of personnel and equipment such as delivery trucks, tarpaulin covers, etc. Where feasible, a wash basin, and shower with a delayed-closing pull chain valve should be provided. All contaminated water should be disposed of as an excess pesticide. Where required, decontamination area should be paved with impervious materials, and should include gutters. Contaminated runoff should be collected and treated as an excess pesticide.

Operational Procedures

Pesticide containers should be stored with the label plainly visible. If containers are not in good condition when received, the contents should be placed in a suitable container and properly relabeled. If dry excess pesticides are received in paper bags that are damaged, the bag and the contents should be placed in a sound container that can be sealed. Metal or rigid plastic containers should be checked carefully to insure that the lids and bungs are tight.... The following provisions should be considered.

Classification and Separation.

(i) Each pesticide formulation should be segregated and stored under a sign containing the name of the formulation. Rigid containers should be stored in an upright position and all containers should be stored off the ground, in an orderly way, so as to permit ready access and inspection. They should be accumulated in rows or units so that all labels are visible, and with lanes to provide effective access. A complete inventory should be maintained indicating the number and identity of containers in each storage unit.

(ii) Excess pesticides and containers should be further segregated according to the method of disposal to ensure that entire shipments of the same class of pesticides are disposed of properly, and that accidental mixing of containers of different categories does not occur during the removal operation.

Container Inspection and Maintenance. Containers should be checked regularly for corrosion and leaks. If such is found, the container should be transferred to a sound, suitable, larger container and be properly labeled. Materials such as absorptive clay, hydrated lime, and sodium hypochlorite should be kept on hand for use as appropriate for the emergency treatment or detoxification of spills or leaks.

Safety Precautions. In addition to precautions specified on the label and in the labeling, rules for personal safety and accident prevention similar to those listed below should be available in areas where personnel congregate:

(1) Accident Prevention Measures

(i) Inspect all containers of pesticides for leaks before handling them.

(ii) Do not mishandle containers and thereby create emergencies by carelessness.

(iii) Do not permit unauthorized persons in the storage area.

(iv) Do not store pesticides next to food or feed or other articles intended for consumption by humans or animals.

(v) Inspect all vehicles prior to departure, and treat those found to be contaminated.

(2) Safety Measures

(i) Do not store food, beverages, tobacco, eating utensils, or smoking equipment in the storage or loading areas.

(ii) Do not drink, eat food, smoke, or use tobacco in areas where pesticides are present.

(iii) Wear rubber gloves while handling containers of pesticides.

(iv) Do not put fingers in mouth or rub eyes while working.

(v) Wash hands before eating, smoking, or using toilet and immediately after loading, or transferring pesticides.

(vi) Persons working regularly with organophosphate and N-alkyl carbamate pesticides should have periodic physical examinations, including cholinesterase tests.

Protective Clothing and Respirators.

(1) When handling pesticides which are in concentrated form, protective clothing should be worn. Contaminated garments should be removed immediately, and extra sets of clean clothing should be maintained nearby.

(2) Particular care should be taken when handling certain pesticides to protect against absorption through the skin, and inhalation of fumes. Respirators or gas masks with proper canisters approved for the particular type of exposure noted in the label directions, should be used when such pesticides are handled.

Fire Control

(1) Where large quantities of pesticides are stored or where conditions may otherwise warrant, the owner of stored pesticides should inform the local fire department, hospitals, public health officials, and police department in writing of the hazards that such pesticides may present in the event of a fire. A floor plan of the storage area indicating where different pesticide classifications are regularly stored should be provided to the fire department. The fire chief should be furnished with the home telephone numbers of (i) the person(s) responsible for the pesticide storage facility, (ii) the appropriate EPA Regional Administrator, who can summon the appropriate Agency emergency response team, (iii) the U.S. Coast Guard, and (iv) the Pesticide Safety Team Network of the National Agricultural Chemical Association, (513-961-4300).

(2) Suggestions for Fire Hazard Abatement.

(i) Where applicable, plainly label the outside of each storage area with "DANGER," "POISON,", "PESTICIDE STORAGE" signs. Consult with the local fire department regarding the use of the current hazard signal system of the National Fire Protection Association.

(ii) Post a list on the outside of the storage area of the types of chemicals stored therein. The list should be updated to reflect changes in types stored.

(3) Suggested Fire Fighting Precautions

(i) Wear air-supplied breathing apparatus and rubber clothing.

(ii) Avoid breathing or otherwise contacting toxic smoke and fumes.

(iii) Wash completely as soon as possible after encountering smoke and fumes.

(iv) Contain the water used in fire fighting within the storage site drainage system.

(v) Firemen should take cholinesterase tests after fighting a fire involving organophosphate or N-alkyl carbamate pesticides, if they have been heavily exposed to the smoke. Baseline cholinesterase tests should be part of the regular physical examination for such firemen.

(vi) Evacuate persons near such fires who may come in contact with smoke or fumes or contaminated surfaces.

Monitoring

An environmental monitoring system should be considered in the vicinity of storage facilities. Samples from the surrounding ground and surface water, wildlife, and plant environment, as appropriate, should be tested in a regular program to assure minimal environmental

insult. Analyses should be performed according to "Official Methods of the Association of Official Analytical Chemists (AOAC)," and such other methods and procedures as may be suitable.

End of Proposed Regulations

Issued in furtherance of cooperative extension work, acts of May 8 and June 30, 1914, in cooperation with the United States Department of Agriculture. Carl N. Scheneman, Vice President for Extension, Cooperative Extension Service, University of Missouri, Columbia, Mo. 65201. The University of Missouri is an equal employment and educational opportunity institution.

MISSOURI PESTICIDE ACT OF 1974

(Senate Bill No. 431, 77th General Assembly)

Section 1. This act shall be known as the "Missouri Pesticide Act of 1974".

Section 2. This act shall be administered by the director of the department of agriculture of the state of Missouri hereafter referred to as the "director".

Section 3. As used in this act, unless the context clearly requires otherwise, the following terms means:

(1) "Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(2) "Applicator or operator";

(a) "Certified applicator", any individual who is certified by the director as authorized to use or supervise the use of any pesticide which is classified for restricted use;

a. "Certified commercial applicator", a certified applicator, whether or not he is a private applicator with respect to some uses, who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by paragraph (b) and (c) of this subdivision;

b. "Certified private applicator", any certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

c. "Private applicator", any person not holding a certified private applicators license who shall be required to obtain a permit for the use of any restricted use pesticide for the purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

(b) "Public operator", any individual who applies pesticides as an employee of any agency of the state of Missouri and any political subdivision thereof, and any other governmental agency. This term does not include employees who work only under the direct supervision of a certified public operator;

(3) "Beneficial insects", those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;

(4) "Defoliant", any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(5) "Desiccant", any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(6) "Device", any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom;

(7) "Environment", includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;

(8) "Equipment", means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application;

(9) "Fungus", any nonchlorophyll-bearing thallophyte, that is, any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other living animals, and except those on or in processed food, beverages, or pharmaceuticals;

(10) "Insect", any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice;

(11) "Land", all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(12) "Nematode", invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms;

(13) "Permit", a written certificate, issued by the director or his authorized agent, authorizing the purchase, possession, or use of certain restricted use pesticides by a private applicator;

(14) "Person", any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;

(15) "Pest";

(a) Any insect, snail, slug, rodent, nematode, fungus, weeds; or

(b) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living man or other living animals, which is normally considered to be a pest;

(16) "Pesticide";

(a) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(b) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;

(17) "Pesticide dealer", any person who is engaged in the business of distributing, selling, offering for sale, or holding for sale restricted use pesticides designated by the director;

(18) "Plant regulator", any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(19) "Restricted use pesticide", any pesticide when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a wide-spread and commonly recognized practice, the director determines may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator;

(20) "Sale", selling or offering for sale any pesticide;

(21) "Snails or slugs", includes all harmful mollusks;

(22) "Unreasonable adverse effects on the environment", any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(23) "Under the direct supervision of a certified applicator", when a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied;

(24) "Weed", any plant which grows where not wanted; and

(25) "Wildlife", all living things that are neither human, domesticated, or pests, including, but not limited to mammals, protected birds, and aquatic life.

Section 4.

1. The director shall administer and enforce the provisions of this act and shall have authority to issue regulations after a public hearing following due notice of not less than thirty days to all interested persons, in conformance with the provisions of chapter 536, RSMo, to carry out the provisions of this act. Such regulations may prescribe methods to be used in the application of pesticides. Where the director finds that such regulations are necessary to carry out the purpose and intent of this act such regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas

during specified periods of time and shall encompass all reasonable factors which the director deems necessary to prevent damage or injury. In issuing such regulations, the director shall give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources. The director may by regulation require that notice of a proposed application of a pesticide be given to landowners adjoining the property to be treated or in the immediate vicinity thereof, if he finds that such notice is necessary to carry out the purpose of this act.

2. The director shall by regulation after a public hearing following thirty days notice adopt a list of "restricted use pesticides" for the state or for designated areas within the state. If the director determines that a pesticide, when applied in accordance with its directions for use, warnings and cautions, and for uses for which it is registered, may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons because of the acute dermal or inhalation toxicity of the pesticide, the pesticide shall be applied only by or under the direct supervision of a certified applicator, or a private applicator with a permit. Such pesticides may be subject to other restrictions as determined by the director, to include the time and conditions of possession and use. For the purpose of uniformity and in order to enter into cooperative agreements, the director may adopt lists of restricted use pesticides as determined by the federal Environmental Protection Agency.

3. No regulation, or any amendment or repeal thereof, provided for in this act shall be adopted, except after public hearing giving an opportunity to the public to be heard, to be held after no less than thirty days prior notice of the date, time, and place of hearing, to be given by regular mail to any person who has registered with the director for purposes of notice of such public hearings, in accordance with procedures prescribed by the director.

4. At any hearing, opportunity to be heard, shall be afforded to any interested person upon written request received not later than twenty-four hours prior to the hearing, and may also be afforded to other persons. In addition, any interested person, whether or not heard may submit within seven days subsequent to the hearing a written statement of views. The director may solicit the views in writing of persons who may be affected by, or interested in any proposed regulation. Any person heard or represented at the hearing, or making written request for notice, shall be given written notice of the action of the director with respect to the subject thereof.

Section 5. The director may by regulation, classify licenses to be issued under this act. Such classifications may include but not be limited to structural pest control operators, ornamental or agricultural pesticide applicators, or right of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides or to the use of pesticides to control insects and plant diseases, rodents, or weeds. Each classification shall be subject to separate testing procedures and requirements, provided, that no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section.

Section 6.

1. No person shall engage in the business of applying pesticides to the lands of another at any time without a certified commercial applicator's license issued by the director, except as provided in section 7 of this act. The director shall

require an annual fee of twenty-five dollars for each certified commercial applicator's license issued. Any employee of any person engaged in the business of applying pesticides to the lands of another at any time, such employee not being licensed as a certified commercial applicator, may apply pesticides only when directly supervised by a person who is licensed as a certified commercial applicator.

2. Application for a certified commercial applicator's license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation.

3. The director shall not issue a certified commercial applicator's license until the individual is certified by passing an examination to demonstrate to the director his knowledge of how to apply pesticides under the classifications he had applied for, and his knowledge of the standards prescribed by regulations for the certification of applicators.

4. The director may renew any certified commercial applicator's license under the classification for which such applicant is licensed, subject to reexamination for additional knowledge that may be required to apply pesticides manually or with equipment the applicant has been licensed to operate.

5. If the director finds the applicant qualified to apply pesticides in the classification he has applied for, and if the applicant files evidence that the requirement for bonds or insurance has been met as required under section 12 of this act, the director shall issue a certified commercial applicator's license limited to the classifications for which he is qualified, which shall expire one year from date of issuance unless it has been revoked or suspended prior thereto by the director for cause; provided, such financial responsibility required under section 12 of this act does not expire at an earlier date, in which case said license shall expire upon the expiration date of the financial responsibility. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefor.

6. The director shall require certified commercial applicators to maintain records with respect to applications of restricted use pesticides. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified commercial applicator.

7. A person engaged in the business of applying pesticides to the lands of another, or his employee, who is the sole certified commercial applicator for that business, and who is not available for direct supervision of other non-certified employees by reason of death, illness, incapacity or absence, is authorized to continue business operations without the direct supervision of a certified commercial applicator for a period not to exceed thirty days.

Section 7.

1. No private applicator shall use any restricted use pesticide unless he first complies with the certification requirements determined pursuant to subsections 2 or

4 of this section, as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use.

2. The private applicator shall qualify for a certified private applicator's license by attending a course of instruction provided by the director on the use, handling, storage and application of restricted use pesticides. The content of the instruction shall be determined and revised as necessary by the director. Upon completion of the course, the director shall issue a certified private applicator's license to the applicant. The director shall not collect a fee for the issuance of such license.

3. If the director does not qualify the private applicator under this section he shall inform the applicant in writing of the reasons therefor.

4. The private applicator may at his own option elect to verify by his signature on a register provided therefor that he understands all the information contained on the label of the pesticide that he intends to purchase. Upon obtaining such verification by signature, the director or his designated agent shall issue a permit for the use of that pesticide only. The director or his designated agent shall not collect a fee for the issuance of such permit.

5. A certified private applicator's license shall expire two years from date of issuance and may then be renewed without charge or additional fee.

Section 8.

1. All agencies of the state of Missouri and the political subdivisions thereof, and any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application of restricted use pesticides.

2. Public operators for agencies listed in subsection 1 of this section shall be subject to examination as provided by subsection 3 of section 6. The director shall issue a limited license without a fee to such public operator who has so qualified. The public operator license shall be valid only when the operator is acting as an operator applying or supervising application of pesticides in the course of his employment.

3. Such agencies shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or any part thereof occurred.

Section 9.

1. No person shall act in the capacity of a pesticide dealer or shall engage in the business of, advertise as, or assume to act as a pesticide dealer unless he has obtained a license from the director which shall expire one year from date of issuance. A license shall be required for each location or outlet from which such pesticides are distributed, sold, held for sale, or offered for sale. Pesticide dealers may be designated by the director as agents of the state for the purpose of issuing permits for restricted use pesticides to private applicators.

2. Application for a pesticide dealer's license shall be made on a designated form obtained from the director's office. The director shall collect a fee of ten dollars for the issuance of each license. The provisions of this section shall not

apply to a pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide applications. The provisions of this section shall not apply to any federal, state, or county agency which provides pesticides for their own programs.

3. Each applicant shall satisfy the director as to his knowledge of the laws and regulations governing the use and sale of pesticides and his responsibility in carrying on the business of a pesticide dealer. Each licensed pesticide dealer shall be responsible for ensuring that all of his employees and agents who sells or recommends restricted use pesticides have adequate knowledge of the laws and regulations governing the use and sale of such restricted use pesticides.

4. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing for any violation of this act whether committed by the dealer, or by the dealer's officer, agent or employee.

5. No pesticide dealer shall sell, give away or otherwise make available any restricted use pesticides to anyone but certified commercial or private applicators or to other pesticide dealers.

6. The director shall require pesticide dealers to maintain books and records with respect to sales of restricted use pesticides. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of sale of the restricted use pesticide to which such records refer, and the director shall upon request in writing, be furnished with a copy of such records by any licensed pesticide dealer.

7. Every licensed pesticide dealer who changes his address or place of business shall immediately notify the director.

Section 10.

1. If the application for renewal of any license provided for in this chapter is not filed prior to expiration date in any year, a penalty of twenty-five per cent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued; provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license. Any person holding a current valid license may renew the license for the next year without taking another examination unless the director determines that additional knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within two months following date of expiration then the licensee shall be required to take another examination.

2. The director may promulgate reasonable regulations requiring additional training and instruction on the part of any applicant for a license issued under this act.

3. The director shall have prepared for prospective licensee's use, a book of guidelines of factual necessary information related to the requirements of this act. A reasonable fee may be collected for said publication.

Section 11. The director, after inquiry, and after opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under this act, if he finds that the applicant or the holder of a license, permit, or certification has violated any provision of this act, or any regulation issued thereunder.

Section 12

1. The director shall not issue a certified commercial applicator's license until the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant; except that, such surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants or land being worked upon by the applicant.

2. The amount of the surety bond or liability insurance required by this section shall be not less than twenty-five thousand dollars for property damage and bodily injury insurance, each separately, and including loss or damage arising out of the actual use of any pesticide. Such surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period. The director shall be notified twenty days prior to any reduction at the request of the applicant or cancellation of such surety bond or liability insurance by the surety or insurer; as long as the total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars; except that, if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim such deductible clause shall not be accepted by the director unless the applicant furnishes the director with a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

3. If the surety furnished becomes unsatisfactory, the applicant shall, upon notice, immediately execute a new bond or insurance and if he fails to do so, the director shall cancel his license and give him notice of cancellation, and it shall be unlawful thereafter for such person to engage in the business of applying pesticides until the bond or insurance is brought into compliance with the requirements of subsection 1 of this section and his license is reinstated by the director.

4. Nothing in this act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the director.

Section 13

1. The director may by regulation require the reporting of pesticide accidents or incidents.

2. Any person claiming damages from a pesticide application shall have filed with the director on a form provided by the director a written statement claiming that he has been damaged, within thirty days after the date that alleged damages occurred. If a growing crop is alleged to have been damaged, the report must be filed prior to the time that twenty-five per cent of the crop has been harvested. Such statement shall contain, but shall not be limited to, the name of the person

allegedly responsible for the application of said pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred, and the date on which the alleged damage occurred. The director shall prepare a form to be furnished to persons to be used in such cases and the form shall contain such other information as the director may deem proper. The director shall, upon receipt of the statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility of the damages claimed, and furnish copies of such statements as may be requested. The director shall inspect damages whenever possible and when he determines that the complaint has sufficient merit he shall make such information available to the person claiming damage and to the person who is alleged to have caused the damage.

3. The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file such a report shall not be a violation of this act. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by others, the director may, when in public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or permit issued under this act until such report is filed.

4. Where damage is alleged to have occurred, the claimant shall permit the director, the licensee and his representatives, such as a bondsman or insurer, to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that such damage may be examined.

Section 14.

1. The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed or certified in another state substantially in accordance with the provisions of this act; except that, financial responsibility must be filed pursuant to section 12 of this act. Fees collected shall be the same as for resident licenses or certification.

2. Any nonresident applying for any license under this act to operate in the state of Missouri shall designate in writing the secretary of state as the agent of such nonresident upon whom process may be served as provided by law; except that, any such nonresident who has designated a resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for designating resident agents. The director shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be certified by the secretary of state.

Section 15.

1. The provisions of this act relating to licenses and requirements for their issuance shall not apply to:

(a) Veterinarians applying pesticides to animals during the normal course of veterinary practice, as long as he is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation or does not publicly hold himself out as a pesticide applicator.

(b) Licensed practitioners of the healing arts using or prescribing pesticides in the practice of medicine.

(c) Government and private research personnel applying pesticides only to bona fide experimental plots.

Section 16. No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway. The director may promulgate rules and regulations governing the discarding and storing of such pesticide or pesticide containers. In determining these rules and regulations the director shall take into consideration any regulations issued by the federal Environmental Protection Agency.

Section 17. When the director or his authorized agent has probable cause to believe a pesticide is being distributed in violation of any of the provisions of this act, or of any of the prescribed regulations under this act, he may issue and serve a written "stop sale, use or removal order" upon the owner or custodian of that pesticide. The pesticide shall not be sold, used or removed until the provisions of this act have been complied with and the pesticide has been released in writing by the director or the violation has been otherwise disposed of as provided in this act by a court of competent jurisdiction.

Section 18. Any person aggrieved by any act of the director may appeal according to the provisions of chapter 536, RSMo.

Section 19. The director may, in cooperation with a land grant college or university or other public educational institutions publish information and conduct short courses of instruction in the areas of knowledge required for licensing or certification under the provisions of this act.

Section 20. The violation of section 6, subsections 1 and 7, section 9, subsections 1 and 5, of this act is a misdemeanor and, upon conviction shall be punished as provided by law.

Section 21. The director may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order:

(a) To secure uniformity of regulations;

(b) To cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(c) To develop and adminster state training programs for certification of applicators consistent with federal standards;

(d) To contract with other agencies including federal agencies for the purpose of training certified applicators;

(e) To contract for monitoring pesticides for the national plan;

(f) To prepare and submit state plans to meet federal certification standards;

(g) To regulate certified applicators; or

(h) To contract with other agencies for the purpose of training pesticide dealers.

Section 22. All rules and regulations promulgated by the director of agriculture under the terms of this act shall stand ratified unless rescinded by the General Assembly within first 60 days of each annual session.

Section 23. Sections 5, 6, 7, 8, 9, 10, 12, and 14 shall become effective on October 21, 1976.